

LEGISLATIVE BILL 7

Approved by the Governor March 07, 2019

Introduced by Blood, 3; Hilkemann, 4; Hunt, 8; Slama, 1.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Cumulative Supplement, 2018; to adopt the Counterfeit Airbag Prevention Act; to provide penalties and eliminate a penalty; to harmonize provisions; to repeal the original section; and to outright repeal section 28-635, Reissue Revised Statutes of Nebraska.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-101, Revised Statutes Cumulative Supplement, 2018, is amended to read:

28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and sections 2 to 5 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 2. Sections 2 to 5 of this act shall be known and may be cited as the Counterfeit Airbag Prevention Act.

Sec. 3. For purposes of the Counterfeit Airbag Prevention Act, unless the context otherwise requires:

(1) Airbag means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system;

(2) Counterfeit supplemental restraint system component means a supplemental restraint system component that displays a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from such manufacturer or supplier;

(3) Nonfunctional airbag means an airbag that meets any of the following criteria:

(a) The airbag was previously deployed or damaged;

(b) The airbag has an electric fault that is detected by the motor vehicle's diagnostic system when the installation procedure is completed and (i) the motor vehicle is returned to the customer who requested the work to be performed or (ii) ownership is intended to be transferred;

(c) The airbag includes a part or object installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

(d) The airbag is subject to the prohibitions of subsection (j) of 49 U.S.C. 30120, as such section existed on January 1, 2019; and

(4) Supplemental restraint system means an inflatable restraint system as defined in 49 C.F.R. 571.208, as such regulation existed on January 1, 2019, designed for use in conjunction with an active safety system. A supplemental restraint system includes one or more airbags and all components required to ensure that an airbag works as designed by the motor vehicle manufacturer, including both of the following:

(a) The airbag operates as necessary in the event of a crash; and

(b) The airbag is designed in accordance with federal motor vehicle safety standards for the specific make, model, and year of the motor vehicle in which it is or will be installed.

Sec. 4. A person violates the Counterfeit Airbag Prevention Act if the person does any of the following:

(1) Knowingly and intentionally manufactures, imports, installs, reinstalls, distributes, sells, or offers for sale any device intended to replace a supplemental restraint system component in any motor vehicle if the device is a counterfeit supplemental restraint system component or a nonfunctional airbag or does not meet federal safety requirements as provided in 49 C.F.R. 571.208, as such regulation existed on January 1, 2019;

(2) Knowingly and intentionally sells, installs, or reinstalls a device that causes a motor vehicle's diagnostic system to fail to warn when the motor vehicle is equipped with a counterfeit supplemental restraint system component or a nonfunctional airbag or when no airbag is installed;

(3) Knowingly and intentionally represents to another person that a counterfeit supplemental restraint system component or nonfunctional airbag installed in a motor vehicle is not a counterfeit supplemental restraint system component or a nonfunctional airbag; or

(4) Causes another person to violate this section or assists another person in violating this section.

Sec. 5. (1) Except as otherwise provided in this section, a violation of the Counterfeit Airbag Prevention Act is a Class IV felony.

(2) A violation of the act is a Class IIIA felony if the defendant has been previously convicted of a violation of the act.

(3) A violation of the act is a Class III felony if the violation resulted in an individual suffering bodily injury.

(4) A violation of the act is a Class IIA felony if the violation resulted in an individual suffering serious bodily injury.

(5) A violation of the act is a Class II felony if the violation resulted in the death of an individual.

Sec. 6. Original section 28-101, Revised Statutes Cumulative Supplement,

2018, is repealed.

Sec. 7. The following section is outright repealed: Section 28-635, Reissue Revised Statutes of Nebraska.